

## **AGREEMENT**

between the

**FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

and

\_\_\_\_\_  
Name of Instructor

THIS AGREEMENT is made effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, BY AND BETWEEN the **FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES, DIVISION OF DRIVER LICENSES**, (hereinafter the "Department") AND \_\_\_\_\_, (hereinafter the "Instructor") located at \_\_\_\_\_ (Instructor address).

## **WITNESSETH**

**WHEREAS**, the Commercial Driving School Instructor instructs the public in the operation of motor vehicles as a certified driving instructor; and

**WHEREAS**, Chapter 488, Florida Statutes, provides for the Department to issue an instructor certificate; and

**WHEREAS**, Chapter 488, Florida Statutes, also provides that the Department is authorized to adopt regulations necessary to implement the law,

**NOW THEREFORE**, the Department and the Instructor, in consideration of the duties and responsibilities set forth herein, mutually agree as follows:

### **SECTION I. GENERAL**

1. The instructor must be under agreement with the Department and employed by or authorized to provide commercial driving instruction with a Department licensed commercial driving school prior to engaging in any driving instruction. Acceptance of the terms and conditions of this agreement shall allow the instructor to be issued an instructor certificate pursuant to Chapter 488, Florida Statutes.
2. Chapter 488, Florida Statutes, is incorporated by reference into this agreement and each instructor must meet any and all provisions therein in accordance with and as interpreted or modified by the specifications in this agreement.
3. The instructor certificate issued pursuant to this agreement shall be valid for a period of one year from the date of this agreement, except as provided in Section IV of this agreement. The instructor shall not conduct driving instruction on an expired, canceled or inactive certificate.

4. The instructor certificate issued pursuant to this Agreement is not transferable. If the license of the commercial driving school; employing the instructor or on whose behalf the instructor is authorized to provide commercial driving instruction, is canceled or terminated by the Department, or the instructor is no longer employed or authorized to provide commercial driving instruction by the school listed on the certificate, the instructor certificate will be canceled and surrendered to the Department within ten (10) days of such cancellation in accordance with Section IV of this Agreement.
5. The instructor certificate card issued pursuant to this Agreement must be conspicuously displayed at all times.

## SECTION II. DEFINITIONS.

For the purposes of this Agreement, the following words and phrases shall have the meaning indicated:

1. **Advanced Crash Avoidance Skills Course** – Advanced driver training consisting of a minimum of 2 hours of classroom/lecture training covering causes of crashes, consequences of crashes, mechanics and dynamics of crashes, principles of car control, human dynamics and vehicle dynamics plus 4 continuous hours of range training not on public streets or roads in exercises developing visual skills, steering skills, braking skills and crash avoidance skills.
2. **Advanced Driver Education Course** - Driving instruction consisting of a minimum of thirty (30) hours academic training, and six (6) hours on the road training in which the student is in actual physical control of the motor vehicle. The course must include basic motor vehicle operation, control, traffic perceptual skills and risk recognition and control procedures.
3. **Commercial Driving School** - An entity, its employees ~~and~~ agents, or other persons authorized to provide commercial driving instruction on behalf of the commercial driving school engaged or intending to engage in driving instruction.
4. **Department** - The Department of Highway Safety and Motor Vehicles and its officers, agents and subdivisions.
5. **Driver Education Instructor Course** - Consists of a 32-hour Teaching Driver and Traffic Safety Education Course.
6. **Driver Performance Analysis System (DPAS)** - The driver performance test that a potential instructor must pass to be eligible to instruct the Basic Driver Education instructor courses.
7. **Driver License Office** - A driver licensing facility operated by or under the authority of the Department's Division of Driver Licenses.
8. **Driving Instruction** - Any activity for compensation related to on the road or classroom education or training in the operation of a motor vehicle.
9. **Driving Instruction Contract** - A written contract between each student and the Contractor for the Instructor to provide driving instruction.
10. **Immediate Family Member** - A person's spouse, parents, brothers, sisters and children, and parents, brothers, sisters and children of the spouse.
11. **Instructor** - A person who holds a valid instructor certificate and engages in driving instruction on behalf of commercial driving school.
12. **Instructor Certificate** –A certificate issued to an individual instructor by the Department pursuant to Chapter 488, Florida Statutes, indicating the individual is authorized to conduct driving instruction for a specific commercial driving school.
13. **Solicitation** - A request or offer directly or indirectly to a person for driving instruction services or enrollment of a driving instruction student.
14. **Student** - A person who receives driving instruction from an Instructor.

### **SECTION III. REQUIREMENTS OF INSTRUCTORS**

#### **A. APPLICATION:**

1. An application for an instructor certificate must be submitted to the Department on a completed original application "Application for an Instructor or Agent Certificate for Commercial Driving School" form HSMV 72606, including all required documents and fees.
2. Prior to a full instructor certificate being issued by the Department, an applicant must satisfy all requirements set forth in this Agreement relating to a temporary instructor certificate in subsection C.

#### **B. GENERAL REQUIREMENTS:**

1. A person who meets all other qualifications for an instructor certificate and who has lost the use of an eye, hand, foot or limb shall be issued an instructor certificate restricted to classroom instruction only.
2. An instructor shall not conduct any driving instruction while the employing commercial driving school's license or the license of the commercial school on whose behalf the instructor is authorized to provide commercial driving instruction, is terminated or canceled.
3. An instructor must successfully complete a driver education refresher course approved by the Department every five (5) years in order to retain such certificate.
4. A duplicate instructor certificate may be issued by the Department upon request by the Instructor submitted to the Department on a completed form HSMV 72606. Two (2) dollars and an affidavit stating that the original document was physically destroyed or lost must accompany the form HSMV 72606.

#### **C. TEMPORARY INSTRUCTOR CERTIFICATE:**

1. To qualify for a temporary instructor certificate an individual must:
  - a. Be at least twenty-one (21) years of age.
  - b. Have at least a valid class E driver license or equivalent, which has not been suspended, revoked, disqualified or canceled within the three year period prior to receipt of the application.
  - c. Submit an original or certified copy of the applicant's driving record if applicant does not have a Florida license.
  - d. Submit an original or certified copy of the applicant's criminal background check from the applicant's home state of residency.
  - e. Be employed as an instructor by or authorized to provide commercial driving instruction on behalf of a commercial driving school which holds a valid license issued by the Department.
  - f. Pass an examination designated by the Department. This examination will consist of achieving a minimum score of fifty-five (55) percent on the Driver Performance Analysis System.
2. A person who is issued a temporary instructor certificate must attend and successfully complete the next scheduled 32-hour Teaching Driver and Traffic Safety Education instructor course prior to the Department issuing a full instructor's certificate or be granted a waiver.
3. Failure to attend and successfully complete the instructor course will result in cancellation of the temporary certificate.
  - a. An applicant for instruction of driver education must complete a driver instructor course (32-hour Teaching Driver and Traffic Safety Education) approved by the Department.

- b. An applicant can submit documentation to the department of training from another jurisdiction and request a waiver of the 32-hour Teaching Driver and Traffic Safety Education Course. All requests for waivers must be approved by the curriculum review committee.

#### **SECTION IV. INSTRUCTOR CERTIFICATE RENEWAL**

1. The Instructor must submit to the Department a completed renewal application form HSMV 72606, including all required documents and fees at least forty-five (45) days prior to the expiration of this Agreement. If the Department determines that the instructor is eligible for a certificate renewal, the renewal period shall be for a period of one year and shall be acknowledged by both parties to this Agreement in writing. All other terms and conditions of this Agreement remain in effect during the renewal period.
2. Failure to submit a completed renewal application at least forty-five (45) days prior to the expiration date will result in non-renewal of the instructor certificate. In such case the instructor must submit an original application for an instructor certificate as provided in Section III of this Agreement, including all fees.
3. An application for renewal may be denied by the Department for the reason set forth in section VI of this Agreement or as the Department deems appropriate.

#### **V. DRIVING INSTRUCTION AND SOLICITATION**

1. The instructor cannot provide on the road driving instruction unless the student possesses at least a learner's license.
2. An instructor shall not conduct driving instruction unless the student has executed a driving instruction agreement with the commercial driving school.
3. The Instructor shall not accompany a student during the driver licensing testing process.
4. If the Instructor accompanies a student to a driver license office, the instructor must carry a copy of the student's driving instruction contract and make it immediately available for inspection by the Department.
5. The Instructor must not engage in driving instruction or solicitation on the property of any Driver License Office, whether owned or leased, including the driving range and parking areas adjoining the driver license office.

#### **SECTION VI. TERMINATION, CANCELLATION, INACTIVATION AND REINSTATEMENT**

**A. CANCELLATION:** The Department reserves the right to cancel this agreement immediately upon determining that the Instructor has done one or more of the following:

1. Failed to continuously maintain the required qualifications under this agreement during the term of this agreement and any renewal period.
2. Conducted driving instruction without a valid certificate or while such certificate is canceled or inactive.
3. Conduct or behavior which the Department determines endangers the health, safety, and welfare of any person or the general public.
4. The driver license or driving privilege of the instructor has been suspended two (2) times relating to financial responsibility, pursuant to s. 318.18, Florida Statutes; or pursuant to section 322.27(3)(a)-(c), Florida Statutes, regardless of adjudication, and such suspensions occur during the term of this agreement or any renewal period.

5. Conviction of any felony, or any offense involving alcohol, narcotic drugs, violence, dishonesty, deceit, fraud or indecency.
6. Fraudulently or by misrepresentation obtaining or assisting a person to obtain any driver license, school license instructor certificate card or agent identification card, regardless of any conviction or obtaining or possessing any materials used by the Department to administer any driver license examination, without the authorization of the Department.
7. The driver license or driving privilege is revoked pursuant to s. 322.28, Florida Statutes, or revoked as a habitual traffic offender pursuant to s. 322.264, Florida Statutes, regardless of whether a driving privilege has been reinstated on a restricted basis for employment or business purposes only, and such revocation occurs during the term of this agreement or any renewal period.

**B. INACTIVATION:** An instructor's certificate shall be deemed to be inactive if their driver license or driving privilege is suspended or otherwise canceled or disqualified during the term of this agreement or any renewal period and such certification is not canceled pursuant to paragraph A(4) of this section. The certificate shall be deemed to be inactive until such time as the instructor provides the Department proof of reinstatement or other department verification showing that the license is no longer suspended, disqualified or canceled. Failure to provide proof of reinstatement or other verification within 30 days from the Department's notice of intent to inactivate shall result in the cancellation of the certificate. A person whose certificate is canceled under this section may reapply to the Department for certification upon the expiration of 30 days from the date of reinstatement.

**C. REAPPLICATION:** A certification canceled under paragraph A (4) of this section may reapply with the Department for certification upon the expiration of 30 days from the date of full reinstatement of the driver license or driving privilege. A certification canceled under paragraph A(7) of this section may reapply with the Department for certification upon the expiration of 1 year from the date of full reinstatement, provided the person has been conviction free for a 1 year period. An instructor whose certificate is canceled for any other reason may reapply with the Department for certification upon the expiration of three (3) years from the date of cancellation.

**D. NOTICE:** Cancellation of this agreement shall be effected by furnishing the Instructor with written notice of cancellation, which shall be effective immediately upon receipt. The notice shall include a short and plain statement of the facts necessitating the cancellation. If the Department determines that grounds for cancellation exist that relate to a failure to comply with or satisfy any provision of this agreement, the Department may postpone cancellation and allow the Instructor thirty (30) days to correct the deficiency. Upon cancellation, the Instructor must relinquish the certificate to the Department upon request.

**E. REINSTATEMENT:** If notice of cancellation is issued, the Instructor has twenty-one (21) calendar days after receipt of the notice to request a Department hearing to determine whether this agreement should be reinstated. If a request for a hearing is made, the matter shall be scheduled for hearing to be convened not more than thirty (30) days from receipt of the request. The Department shall render its decision within twenty-one (21) calendar days following the conclusion of the hearing. The Department's decision is final.

**F. CANCELLATION BY LAW:** In the event that Chapter 488, Florida Statutes, is repealed by the Legislature, this agreement will terminate on the effective date of such act. This agreement may be canceled by the Instructor upon thirty (30) days written notice. This agreement is subject to unilateral cancellation by the Department for refusal of the Instructor to allow public access to all documents, papers, letters or other material subject to provisions of Chapter 119 (Public Records Law), Florida

Statutes, and made or received by the Instructor in conjunction with this agreement. This agreement is subject to immediate cancellation by the Department for failure or refusal of the Instructor to comply with any provision of this agreement or any Florida Law.

## **VII. LIABILITY**

It is expressly understood and acknowledged that certification under this agreement does not create any liability for the Department for any acts of the Instructor that result in claims, actions or litigation as a result of the Instructor providing services to the public as a person issued a certificate under this agreement. It is also expressly understood and acknowledged that the Instructor is not an agent of the State of Florida or the Department. The Department is not liable for any acts of the Instructor.

## **VIII. AMENDMENTS**

The Instructor agrees to accept any amendments to this agreement necessitated by a change in any law upon written notice by the Department. Any other amendments to this agreement must be written and acknowledged by a duly authorized representative of both parties to this agreement.

## **IX. NON-ASSIGNABILITY**

This agreement and the Instructor's certificate hereunder are not assignable by the Instructor, either in whole, or in part.

## **X. WAIVER AND SEVERABILITY**

A waiver by either party of any provision of this agreement shall not act as a waiver of any other provision of this agreement. If any provision of this agreement is for any reason declared invalid, illegal or unenforceable, that declaration shall not affect the remainder of the provision of this agreement.

## **XI. LIABILITY AND ATTORNEY FEES.**

1. The Department has no responsibility for any changes in the law by the Florida Legislature and, in no event, shall the Department or the State of Florida be responsible for any damages that may be incurred as a result of reliance of the Instructor on the continuation of this agreement.
2. It is expressly understood that the Instructor is a dependent Instructor of the Contractor, not an agent of the Department. The Department's liability in negligence or indemnity for acts of its employees or officers will be only as provided under section 768.28, Florida Statutes.
3. The Department shall not be responsible for attorney fees except as provided by statute.

## XII. AGREEMENT AS INCLUDED ENTIRE AGREEMENT

This instrument embodies the whole AGREEMENT of the parties. There are no provisions, terms, conditions or obligations other than those contained herein; and this AGREEMENT shall supersede all previous communications, representations or agreements either verbal or written between parties hereto.

IN WITNESS WHEREOF, the DEPARTMENT and the INSTRUCTOR have executed this AGREEMENT as of the date noted on the first page of this agreement.

DEPARTMENT:

BY: \_\_\_\_\_

Stacy H. Arias  
Chief of Purchasing and Contracts

BUREAU OF DRIVER EDUCATION AND  
DUI PROGRAMS

BY: \_\_\_\_\_

Barbara Lauer, Chief

INSTRUCTOR

BY: \_\_\_\_\_

\_\_\_\_\_  
Signature of Witness #1

\_\_\_\_\_  
Print Witness #1 Name

\_\_\_\_\_  
Signature of Witness #2

\_\_\_\_\_  
Print Witness #2 Name

APPROVED AS TO LEGAL FORM AND SUFFICIENCY

  
\_\_\_\_\_  
JUDSON M. CHAPMAN, GENERAL COUNSEL

DATE: 11-21-06